

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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IN THE MATTER OF THE INDIANA UTILITY
REGULATORY COMMISSION'S
INVESTIGATION OF MATTERS RELATED
TO THE FEDERAL COMMUNICATIONS
COMMISSION'S REPORT AND ORDER AND
ORDER ON REMAND AND FURTHER
NOTICE OF PROPOSED RULEMAKING IN
CC DOCKET NOS. 01-338, 96-98, AND 98-147

CAUSE NO. 42500

FILED

NOV 03 2003

INDIANA UTILITY
REGULATORY COMMISSION

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") makes the following Entry in this Cause:

On August 27, 2003, the Indiana Utility Regulatory Commission ("Commission"), on its own motion, issued an Order in this Cause that initiated an investigation of certain matters contained in the above-titled Federal Communications Commission ("FCC") Order and accompanying regulations, commonly known as the "Triennial Review Order" or "TRO."

Pending Commission approval of a Prehearing Conference Order in this Cause, it is anticipated that this Cause will be divided into three separate but parallel proceedings. Cause No. 42500 will consider those issues that pertain to mass market switching impairment as set forth in the TRO. Cause No. 42500-S1 will consider the requirement in the TRO to establish a batch hot cut process. And Cause No. 42500-S2 will consider the impairment issues in the TRO associated with high capacity loops and dedicated transport.

The purpose of this Entry is to issue certain data requests to all parties to this Cause, as well as to all non-party, facilities-based competitive local exchange carriers and facilities-based interexchange carriers operating within the State of Indiana. The Commission is issuing these data requests both to parties and some non-parties in order to obtain accurate and complete information regarding mass market switching, and high capacity loops and transport within the State of Indiana. This information is necessary for the Commission to complete its impairment analyses of these particular network elements.

The data requests are only being issued electronically and can be found at the following web site: http://www.in.gov/iurc/utilities/telecom/42500/42500_index.html. The data requests are being issued in the form of three separate sets of questions pertaining to: (1)

mass market switching, (2) high capacity loops, and (3) high capacity transport. Each set of questions has been compiled on spreadsheets. Please note that there are several tabbed spreadsheets within each set of questions. The first tab for each set of questions contains instructions for completing the spreadsheets.

Completed spreadsheets should be filed with the Commission and served on all parties on or before November 24, 2003. In lieu of filing and serving paper copies of responses, you may respond electronically to these data requests by electronically mailing all completed spreadsheets, or sending via regular mail an electronic version (EG: CD Rom) of all completed spreadsheets, to the Commission and to all parties. Attached to this Entry is a service list developed for this Cause that contains both the electronic mail and regular mailing addresses for the parties and/or their legal counsel. This service list should be used for either electronic or regular mail service of responses. The Commission's e-mail address for this Cause is 42500@urc.state.in.us.

The Presiding Officers recognize the likelihood that many of the recipients of these data requests will consider their responses to be confidential and will desire that both the Commission and the parties maintain their responses as confidential. The Commission's rule found at 170 IAC 1-1.1-4 governs procedures for submitting confidential information to the Commission. Confidential information served between parties or between parties and non-parties may be the subject of private confidentiality agreements. With regard to the subject and scope of this particular Entry, the Presiding Officers also recognize that (1) there are severe time constraints that the TRO has imposed upon the Commission and the parties to resolve the impairment issues associated with mass market switching, and high capacity loops and transport; (2) some recipients of these data requests, particularly some of the numerous non-party recipients, may have infrequent contact with the Commission and may be unfamiliar with submitting a confidentiality request to the Commission pursuant to 170 IAC 1-1.1-4; (3) a legally sufficient request by a party or non-party that the Commission treat its responses as confidential trade secret information would likely result in a preliminary finding of confidentiality; and (4) the anticipated large quantity of confidentiality determinations and agreements that would need to be in place before the responses would be submitted would likely cause the receipt of responses to be delayed and may disrupt the established procedural schedules to the point that the Commission would be unable to make well-reasoned impairment determinations within the time period prescribed by the TRO. Therefore, for purposes of this Entry only, the Presiding Officers will, if requested by any party or non-party recipient of these data requests, make a preliminary determination that the responses to the data requests are confidential as information containing trade secrets, pursuant to Ind. Code §§ 8-1-2-29, 5-14-3-4 and 24-2-3-2. Clearly marking the responses as "Confidential" will serve as a request for confidentiality. In addition, the parties are directed to maintain the responses they receive as confidential, if the responses are clearly marked or otherwise identified as confidential. The Presiding Officers find that the unique circumstances that surround the issuance of these data requests provide sufficient justification to allow this exception to standard Commission procedural requirements.

IT IS SO ORDERED.

William G. Divine
William G. Divine, Administrative Law Judge

November 3, 2003
Date

Patricia K. White acting for
Nancy E. Manley, Secretary to the Commission

42500 MAILING LIST – REVISED 11/3/03

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